

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CITIZENS UTILITY BOARD)	
)	
Request for an investigation into the current)	00-0620
structure of the Nicor Customer Select Pilot)	
Program and the Proposed Changes filed)	
August 10, 2000, Meet the Public Interest)	
Standards and Other Requirements Set Forth)	(Cons.)
in the Public Utilities Act. 220 ILCS 5/4-101;)	
220 ILCS 5/8-101; 220 ILCS 8-102.)	
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Northern Illinois Gas Company)	
d/b/a Nicor Gas Company)	00-0621
)	
Proposed changes to Riders 15 and 16 and)	
related provisions. (Tariffs filed on)	
August 11, 2000))	

REPLY BRIEF ON EXCEPTIONS ON REHEARING

ON BEHALF OF THE

CITIZENS UTILITY BOARD

AND

THE COOK COUNTY STATE'S ATTORNEY'S OFFICE

December 12, 2001

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INTRODUCTION

The Citizens Utility Board (“CUB”) and the Cook County State’s Attorney’s Office (“CCSAO”) reply to the Brief on Exceptions filed by Nicor Gas. This is now the eighth brief in Docket No. 00-0620, thus there is little left to address that has not been said multiple times. However, CUB/CCSAO believe that it is worth reiterating one final time that the Commission should ensure that: Nicor’s program does not provide the Company any revenues beyond the costs of the program, and that the Commission should bend over backwards to limit indirect cross-subsidization of Nicor’s competitive affiliate, Nicor Energy.

CUB/CCSAO continue to assert, for the reasons already discussed at length, that the Commission reject Nicor Gas’s arguments in its Brief on Exceptions: that its short-term interest rate, rather than its overall cost of capital, should be used to calculate the potential savings on gas storage (Exception 1); that the Commission should assume Nicor will not receive savings on storage inventory because of uncertainty (Exception 3); or that the Commission has miscalculated the MDCQ per eligible customer (Exception 4). The GCI parties have discussed these issues at length and CUB/CCSAO will not revisit them. We will however, add one additional point regarding Nicor’s attempt to recover fully distributed costs for its billing (Nicor Exception 3), because it highlights Nicor’s attempt to structure the Customer Select program to benefit the Company.

1. THE COMMISSION SHOULD NOT REVERSE ITS LONGSTANDING POLICY THAT NICOR RECOVER ONLY INCREMENTAL COSTS FOR ITS BILLING ON BEHALF OF SUPPLIERS

In its discussion of billing in its Brief on Exceptions on Rehearing, Nicor continues to argue that the decision to limit Nicor's billing expenses to incremental costs violates the Commission's cost allocation principles. Nicor Brief on Exceptions at 10-15. Nicor's arguments on the billing charge for suppliers continue to ignore the issue of whether the company is double-recovering if they charge \$.50 per bill, because they are still billing the same customers they were previously billing for Nicor Gas. Basically, the scenario is simple: same bill, with virtually the same cost to the company of producing the bill. For those costs not covered, the Proposed Order allows Nicor to recover its incremental costs. Nicor's argument that the Commission should focus on ensuring that the cost-causer pays is misguided. Nicor Exceptions at 11. The cost-causer should pay – and the cost-causer is paying under the current ruling. By paying the incremental cost, the cost-causer is paying.

In essence, the argument comes down to whether Nicor should be allowed to charge suppliers fully distributed costs or incremental costs. Nicor Witness Harms states in his direct testimony, the *total cost* for the bill is \$.50, and Nicor attempts to recover this total cost. Nicor Rehearing Group Ex. 1 at 15. As a final word on the billing issue, CUB/CCSAO reminds the Commission of the following ruling by the Commission in Nicor's last rate case:

13. Customer Billing and Collection Services Performed for NICOR Energy Services (“NES”)

NI-Gas currently provides billing, collection and treasury services for its affiliated company, NES. Staff Witness Jenkins proposes to share the billing, collection and treasury costs equally, consistent with the treatment of NI-Gas services

approved by the Commission in prior NI-Gas dockets 89-0089 and 91-0239. *Staff contends that the Company's current practice of charging four cents for billing services that cost over forty cents in total, with postage alone contributing over twenty-four cents, results in a windfall for NES.* Alternatively, he proposes that if the Commission believes there is a subsidization of NES, then NES should reimburse the Company for the full amount associated with these costs. (Staff Ex. 13 at 49-50). The Commission rejects this alternative proposal.

In response, NI-Gas contends that its billing charge exceeds the incremental cost of providing NES such services. *The Company argues that as long as it is charging more than its incremental cost, there is an offset to its fixed cost of service, benefiting ratepayers through a reduction in costs.* Staff cannot dispute that NI-Gas' billing charge to NES substantially exceeds the incremental cost of providing service. Since we agree with the Company that ratepayers benefit thereby through a reduction in costs, Staff's adjustment cannot be accepted.

Northern Illinois Gas Co., Docket No. 95-0219, 1996 Ill. PUC LEXIS 204, at *75 (April 3, 1996) (*emphasis added*). Clearly, in Docket No. 95-0219, the Commission approves Nicor's request to charge Nicor Energy Services only incremental costs. The Commission specifically rejects Staff's position requiring NES to cover the fully distributed costs of billing. However, now that New Power Company and others would have to pay the charge, the Company has changed its position.

It is undeniable that Nicor is attempting to run away from history and request that the Commission do a complete 180-degree turn from the last rate case. The difference is, before competition became prevalent, Nicor Energy benefited from only having to pay Nicor Gas incremental costs. Today, Nicor Energy benefits from a competitive advantage if other suppliers, such as New Power Co., pay fully distributed costs to Nicor Gas, Nicor Energy's affiliated company. This is true because the payment from Nicor Energy to Nicor Gas stays within Nicor, while a payment from New Power Company to Nicor Gas is a true transfer of resources. The Commission should not change its position today to benefit Nicor and Nicor Energy.

PROPOSED LANGUAGE at p. 35:

A. F. Commission's Conclusion

The Commission finds that it is reasonable and appropriate for Nicor Gas to implement a charge to suppliers for the provision of optional billing service. The Commission first notes that no party claim Nicor Gas should not be allowed to recover the incremental costs it incurs to provide such optional billing service. At issue is whether Nicor Gas should be allowed to recover from suppliers 50 percent of the fully distributed cost of providing this service.

The Commission concludes that, at this time, it is not appropriate for Nicor Gas to include any portion of its fully distributed costs in the charge for optional billing service provided to suppliers. It has been correctly noted by GCI that the base rates established in Docket No. 95-0219 were designed to allow Nicor Gas the opportunity to recover all of its fully distributed costs. The parties all recognize that various components of the Company's costs and revenues have increased and decreased since that time. While it is reasonable to allow Nicor Gas, between rate cases, to institute charges that collect the incremental cost associated with new programs, it is inappropriate to allow Nicor Gas to assess charges to selectively recover increased costs that are not directly related to the implementation of a new program. Therefore, the Commission approves a charge of \$0.25 per bill.

The Commission also notes that Nicor has not persuaded the Commission that it should deviate from its ruling on this issue in Nicor's last rate case, Docket No. 95-0219. In that proceeding Nicor specifically argued that its charges for billing on behalf of its affiliate, Nicor Energy Services should be based on incremental costs, not fully distributed costs. Now, that market conditions have changed and incremental pricing no longer benefits the Company, because Nicor Energy benefits if all competitors pay fully distributed costs, Nicor has changed its position. While Nicor's position has changed, the Commission's position has not. The Commission rejects Nicor's argument.

As to Nicor Gas' argument that suppliers should be made to pay an allocated share of costs, the Commission does not address the question of whether it would be appropriate for Nicor Gas to assess a portion of its fully distributed costs on Customer Select suppliers in its next general rate case. That future rate case is the appropriate forum for changing and/or reallocating recovery of fully distributed costs. We concur with Nicor Gas' argument that rates reflect circumstances at a single point in time; however, all of the many factors that comprise rates must be considered together when changing rates or modifying the manner in which costs are recovered.

CONCLUSION

For the reasons outlined above, CUB/CCSAO request that the Commission amend the Proposed Order on Rehearing to include the language regarding the billing costs issue from Docket No. 95-0219. Other than this change, CUB/CCSAO continue to submit that the Commission make the changes set forth in its Brief on Exceptions.

December 12, 2001

Respectfully Submitted,

THE CITIZENS UTILITY BOARD

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TO: (See attached Service List)

NOTICE OF FILING

Please take notice that on December 12, 2001, Robert J. Kelter filed a Reply Brief on Exceptions on behalf of the Citizens Utility Board and the Cook County State's Attorney's Office with Illinois Commerce Commission in the above-captioned docket. Copies of which are hereby served upon the parties of record by electronic mail.

Dated: December 12, 2001.

Robert J. Kelter
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Citizens Utility Board

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CERTIFICATE OF SERVICE

I, Robert J. Kelter, certify that the foregoing documents, together with the Notice of Filing, were served upon all parties of record listed on the attached service list by electronic mail on December 12, 2001.

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